IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6440 of 2005

Between:

1 Gudla Hari Gupta, s/o late Satyanarayana,
r/o Gummalaxmipuram, Vizianagaram District.
2 Gudla Venkata Rao, s/o late Satyanarayana,
Main Road, r/o Gummalaxmipuram, Vizianagaram District.
3 Gudla Srinivasa Rao, s/o late Satyanarayana,
Main Road, r/o Gummalaxmipuram, Vizianagaram District.

..... PETITIONERS

AND

1 The Special Deputy Collector (T.W.) Elwinpeta,

Vizianagaram District.
2 The Mandal Revenue Officer, Gummalakshimipuram,

Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly a writ in the nature of mandamus, declaring that, the order dt.3-5-2003 in O.P.No.5/2000 passed by the 1st respondent herein and the urgent notice in proceedings R.C.No.414/04 dt.19-11-2004 passed by the 2nd respondent herein are illegal and without jurisdiction and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.V.SUBRAMANYA NARASU

Counsel for the Respondent Nos.1 and 2: GP FOR SOCIAL WELFARE

The Court at the admission stage made the following:

ORDER:

Challenging the order dated 03.05.2003 in O.P.No.5/2000, passed by the 1st respondent, and the urgent notice in proceedings R.C.No.414/2004, dated 19.11.2004, passed by the 2nd respondent, the present writ petition is filed.

The 1st respondent-Special Deputy Collector passed the impugned order, dated 03.05.2003, directing ejectment of the respondent in O.P.No.5/2000 from the schedule land. In pursuance of that order, the 2nd respondent-Mandal Revenue Officer issued an urgent notice, directing the writ petitioner herein to appear before him on 25.11.2004 with all the documents. Challenging the same, the present writ petition is filed.

Heard the learned Counsel for the petitioners and the learned Government Pleader for Social Welfare.

The learned Counsel for the petitioners contended that the decree, passed against the respondent, who died prior to passing of the order, is nullity, and therefore, the consequential ejectment notice is to be set aside.

On the other hand, the learned Government Pleader for Social Welfare contended that the writ petitioner herein was brought on record in O.P. proceedings as legal heir of the respondent therein and therefore, the order dated 03.05.2003, passed by the 1st respondent in O.P.No.5/2000, does not suffer from any legal infirmities, and as against the said order, an appeal lies to the Additional Agent to the Government.

As seen from the order of the 1st respondent in O.P.No.5/2000, dated 03.05.2003, it is clear that the respondent therein died on 20.02.2002, and notices have been sent

to the legal heir of deceased respondent, Gudla Hari Gupta, who is the 1st petitioner herein, and he signed the notice, but did not attend the Court and filed any documents in support of the schedule mentioned property. There upon, the 1st respondent, ordering eviction of the respondent from the schedule mentioned land, has passed the impugned order. Hence the contention of the learned Counsel for the petitioner that the decree passed against the dead person is untenable, in view of the fact that the legal heir was brought on record. Hence the impugned order and consequential urgent notice do not suffer from any incurable legal infirmities so as to call for interference by this Court. The writ petition is devoid of merit.

Therefore, the Writ Petition is dismissed. However, the petitioner is at liberty to avail the remedy of appeal before the Additional Agent to the Government. No order as to costs.

Dated: 28.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Special Deputy Collector,

Elwinpeta, Vizianagaram District

2. The Mandal Revenue Officer,

Gummalakshmipuram,

Vizianagaram District

3. Two CCs to the Government Pleader for

Social Welfare, High Court Buildings,

Hyderabad (OUT)

4. Two CD copies

*Form-NIC-OGS/WP{**RS**}*